

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, AUGUST 19, 2009**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of August 19, 2009, was called to order by Mayor Hansen at 6:00 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent: None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

C-2 Announcement of Closed Session

- a) Exposure to Litigation: Government Code §54956.9(b); One case: Exposure to Litigation from California's Investor Owned Utilities (SCE, PG&E, and SDG&E) against City of Lodi Based on the Market Disruptions Associated with the Electric Utility Deregulation Crisis of 2000-2001
- b) Prospective Lease of a Portion of 218 West Pine Street and 211 Oak Street, Lodi; the Negotiating Parties are the City of Lodi, Odd Fellows Hall Association of Lodi, and Beckman Capitol Corporation for Placement of Environmental Cleanup Equipment; Price and Terms are under Negotiation; Government Code §54956.8

C-3 Adjourn to Closed Session

At 6:00 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters. The Closed Session adjourned at 7:00 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:06 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

Items C-2 (a) and C-2 (b) were discussion and direction only.

A. Call to Order / Roll call

The Regular City Council meeting of August 19, 2009, was called to order by Mayor Hansen at 7:06 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent: None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. Invocation - Pastor Mark Price, St. Paul Lutheran Church

C. Pledge of Allegiance

D. Presentations

D-1 Awards - None

D-2 Proclamations - None

D-3 Presentations - None

E. Consent Calendar (Reading; Comments by the Public; Council Action)

Council Member Hitchcock made a motion, second by Mayor Pro Tempore Katzakian, to approve the following items hereinafter set forth, **except those otherwise noted**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-1 Receive Register of Claims in the Amount of \$1,834,797.83 (FIN)

Claims were approved in the amount of \$1,834,797.83.

E-2 Approve Minutes (CLK)

The minutes of August 4, 2009 (Shirtsleeve Session), August 5, 2009 (Regular Meeting), August 11, 2009 (Shirtsleeve Session), and August 11, 2009 (Special Meeting) were approved as written.

E-3 Accept Memorial Bench and Plaque Donation from Lisa and Pett Saiprasert in Honor of Chad Ehrhart (PR)

Accepted the memorial bench and plaque donation from Lisa and Pett Saiprasert in honor of Chad Ehrhart.

E-4 Adopt Resolution Awarding Contract for Tree Trimming (Power Line Clearing) to Asplundh Tree Expert Company, of Stockton, CA (\$326,700) (EUD)

Adopted Resolution No. 2009-112 awarding the contract for Tree Trimming (Power Line Clearing) to Asplundh Tree Expert Company, of Stockton, CA, in the amount of \$326,700.

E-5 Adopt Resolution Authorizing the City Manager to Sign the Agreement for Hazardous Materials Team within San Joaquin County (FD)

Adopted Resolution No. 2009-113 authorizing the City Manager to sign the agreement for Hazardous Materials Team within San Joaquin County.

E-6 Approve Memorandum of Understanding between Visit Lodi! Conference and Visitors Bureau and the City of Lodi and Authorize the City Manager to Execute the Agreement on Behalf of the City of Lodi (CM)

Approved the Memorandum of Understanding between Visit Lodi! Conference and Visitors Bureau and the City of Lodi and authorized the City Manager to execute the agreement on behalf

of the City of Lodi.

E-7 Adopt Resolution Authorizing the City of Lodi's Participation in an Interlocal Agreement Regarding the 2009 Edward Byrne Memorial Justice Assistance Grant and Authorizing the City Manager to Execute the Agreement on Behalf of the City of Lodi (PD)

Adopted Resolution No. 2009-114 authorizing the City of Lodi's participation in an Interlocal Agreement between the County of San Joaquin and the cities of Lodi, Stockton, Manteca, and Tracy regarding the 2009 Edward Byrne Memorial Justice Assistance Grant and authorizing the City Manager to execute the agreement on behalf of the City of Lodi.

E-8 Adopt Resolution Authorizing Administrative Settlement with California Regional Water Quality Control Board for Discharge Violations (PW)

Adopted Resolution No. 2009-115 authorizing Administrative Settlement with California Regional Water Quality Control Board for discharge violations.

E-9 Set Public Hearing for October 7, 2009, to Consider Resolution Approving New Rates for Solid Waste Collection (PW)

This item was pulled for further discussion by a member of the public.

Felix Huerta spoke in regard to his concerns about which year's Consumer Price Index was being utilized to calculate increases. Mayor Hansen stated the current item is to set a public hearing only and the specific issue of concern can be addressed at the public hearing.

Mayor Hansen made a motion, second by Council Member Johnson, to set the public hearing for October 7, 2009, to consider a resolution approving new rates for solid waste collection.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

F. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES. The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Kuane Washington spoke in regard to her concerns about the various charges on her electric utility billing, the policy to receive the deposit back, and the increased rates. Mayor Hansen stated a representative of the Electric Utility Department will be contacting her to provide her with the requested clarification.

G. Comments by the City Council Members on Non-Agenda Items

Mayor Hansen stated he will be adjourning the meeting in memory of Steve Berkowitz, a long-

time teacher at Tokay High School. Mr. Hansen also reported on the status of the San Joaquin blueprint coming before the Council before the end of the year and AB 32 renewable portfolio standards, which may become an election issue in the near future.

Council Member Hitchcock requested additional information in the form of hard data and spreadsheets in the Council Communications in general and specifically requested cost analysis and data for wastewater and artificial turf.

H. Comments by the City Manager on Non-Agenda Items

None.

I. Public Hearings - None

J. Communications

J-1 Claims Filed Against the City of Lodi - None

J-2 Appointments

a) Appointment to Library Board of Trustees and Re-Post for Vacancies on Lodi Budget/Finance Committee and Lodi Animal Advisory Commission (CLK)

Council Member Mounce made a motion, second by Council Member Hitchcock, to make the following appointment and re-post for the following vacancies:

APPOINTMENT:

Library Board of Trustees

Claudia Maria Velez, term to expire June 30, 2012

POSTING:

Lodi Animal Advisory Commission

One Vacancy, term to expire December 31, 2010

Lodi Budget/Finance Committee

One Vacancy, term to expire June 30, 2013

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

J-3 Miscellaneous - None

K. Regular Calendar

K-1 Consider Impact of State Adopted Budget and Amend Budget via Resolution as Needed in Response to Proposition 1A Property Tax "Borrowing" (CM)

City Manager King briefly introduced the subject matter of the 2009-10 budget adjustments.

Deputy City Manager Jordan Ayers provided a PowerPoint presentation regarding the 2009-10

budget adjustments. Specific topics of discussion included State budget borrowing of property tax, Lodi estimated share of \$1.2 million, reduction of General Fund revenue, choices for City Council, reducing expenditures, participation in securitization, loans from Electric Utility and unrestricted PCE settlements, California Communities Bond, interest rate for borrowing, and staff recommendation of internal borrowing.

In response to Mayor Hansen, Mr. Ayers stated that at this point he is not aware of any agencies that have filed the hardship, which is available to both cities and counties.

In response to Council Member Hitchcock, Mr. Ayers stated the list in the Council Communication was arrived at by giving the individual departments an amount and then the departments responding with what possible cuts would look like.

In response to Council Member Hitchcock, Mr. Ayers stated if the City Council chooses to exercise a combined option, staff could come back with specific prioritized lists of programs and services that could be cut.

In response to Council Member Johnson, Mr. King stated he believes they have reached a point of diminishing returns during the last budget cycle and lay offs will be likely.

In response to Council Member Johnson, Mr. King stated one option to address the State coming back in the future with gas tax reductions is to reduce the streets and maintenance division funding by one-third because it is funded by gas tax on a one-third basis.

In response to Council Member Mounce, Mr. King stated some of the differences with the California Communities Bond and the previous State bond financing are the current credit worthiness of the State, the underlying belief of the rating agencies in the State's ability to pay, the effect of the hardship exemption, and the timing and details of the State securitization program.

In response to Council Member Mounce, Mr. King stated the League of California Cities is asking the cities to show an interest in the program early on, although the timing of the actual bond issuance will be later. Mr. King stated he is not aware of the current status of the litigation against the State by the League.

In response to Mayor Pro Tempore Katzakian, Mr. King and Mr. Ayers confirmed that generally the City receives the property tax money when the property taxes are paid on or around January 1 and the League is advising that the timing of the bond issuance may be consistent with the property tax receipt if everything goes right.

In response to Council Member Hitchcock, Mr. King stated the City is fairly early in bringing the budget options to the Council in light of the State's additional taking and he is aware that San Joaquin County is looking closely at the securitization option.

In response to Mayor Hansen, Mr. King confirmed that the State is proposing to borrow the property tax money and pay it back with interest within a three-year period, the State can only borrow two times during a ten-year period, and it cannot borrow the second time without paying back the first borrowing with interest.

In response to Mayor Hansen, Mr. King stated he is not currently aware of any other discussion the State is having regarding taking additional funding other than that associated with the gas tax, which is also referred to as the highway users tax.

In response to Mayor Hansen, Mr. Ayers stated with the Electric Utility Department (EUD)

borrowing option the initial three percent interest earnings from the State would go to the EUD fund and any excess interest would go to the General Fund.

In response to Council Members Johnson and Mounce, Mr. Ayers confirmed that in theory the State could default on the interest for any of the options and the only option that may be secure is the securitization option because the State would be responsible to the bond holders directly if it defaults.

In response to Council Member Hitchcock, Mr. Ayers stated the City would need to pledge the entire amount for the California Communities Bond option because there is no sale price for the bonds for cities.

In response to Council Member Hitchcock, Mr. Ayers confirmed an additional disadvantage of borrowing from EUD is how the rating agencies may view the internal borrowing. Mr. King explained that, based on the cash on hand for days viewpoint of rating agencies, the City is low in its reserve amount, although the rating agencies may look at the internal borrowing more positively from a receivable option on interest and the new Lodi Energy Center.

In response to Council Member Hitchcock and Mayor Hansen, Mr. Schwabauer stated at the current time staff does not know what the ongoing future clean-up of PCE/TCE will cost; although, it does know what the anticipated costs are for the next two years in clean-up and system installation. Mr. Schwabauer stated that, based on the current knowledge, short-term borrowing from the PCE/TCE fund should not affect the ongoing clean-up efforts.

In response to Council Member Hitchcock, Water Services Manager Charlie Swimley stated the annual collection for PCE/TCE is approximately \$2.5 million.

In response to Council Member Mounce and Mayor Hansen, Mr. King stated that, with respect to the California Communities Bond option, the League is putting together a financing team, legislation related to the option is being drafted, cities are told that they will soon be contacted to gauge interest, and the City can express interest and make a firmer commitment at a later time when there is more information available.

Council Member Hitchcock requested that additional information be brought back to the Council regarding possible reductions in services and programs.

In response to Council Member Johnson, Mr. King stated that the property tax reductions would likely be seen at the end of the year; although, if the Council chooses to pursue a reduction in expenditures, staff would need as much time as possible to absorb and implement the reductions in this fiscal cycle to ensure the budget remains balanced at the end of the current fiscal year.

In response to Mayor Pro Tempore Katzakian, Mr. King stated it is the second month of the fiscal year and staff is working to close the books on last year and ensure the City is on track for the current fiscal year. Mr. King stated the range for the property tax taking is between \$1.2 and \$1.5 million.

Council Member Johnson also requested additional information about reductions in expenditures.

Robin Rushing spoke in favor of the option to pursue the California Communities Bond option and then borrow from the PCE/TCE if necessary.

Council Member Mounce made a motion, second by Mayor Hansen, to adopt Resolution No. 2009-116 amending the budget in response to Proposition 1A property tax "borrowing" by

pursuing the California Communities Bond option, followed by a borrowing from the PCE/TCE fund if necessary.

VOTE:

The above motion carried by the following vote:

Ayes: Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: Council Member Hitchcock, and Council Member Johnson

Absent: None

K-2 Approve Downtown Lodi Business Partnership 2009-10 Annual Report, Adopt Resolution of Intention to Levy Annual Assessment, and Set Public Hearing for September 2, 2009, to Consider the Proposed Assessment (CM)

City Manager King provided a brief introduction regarding the Downtown Lodi Business Partnership (DLBP) annual report and proposed assessment.

DLBP Executive Director Jaime Watts provided a presentation regarding the annual report for the DLBP. Specific topics of discussion included overview of the organization, proposed budget, profit and loss report for previous year, balance sheet, benefit fee schedule, calendar of events, overview of events, and current and future plans.

In response to Mayor Hansen, Ms. Watts stated that, in response to a concern about clean-up after the Farmer's Market, UCP is coming out earlier on Friday mornings and the merchants were reminded in writing that they are responsible for cleaning their areas after the market.

In response to Council Member Hitchcock, Ms. Watts stated storage was included in the rent line item last year, it is broken out in the report this year, and the rent remains the same from the previous year. She further stated that expenses were broken down further this year by events to more accurately track expenditures.

In response to Mayor Hansen, Mr. King stated the Streets and Highway Code requires the DLBP Board to submit an annual report, the Lodi Municipal Code requires the report be submitted by September 1, and the municipal code could be modified to make the submission of the report consistent with the City's fiscal year.

In response to Council Member Johnson, Ms. Watts stated DLBP is working with the wine tasting rooms and businesses in promotion and continuing to work on clean-up efforts.

Council Member Mounce made a motion, second by Council Member Hitchcock, to approve the Downtown Lodi Business Partnership 2009-10 Annual Report, adopt Resolution No. 2009-117 of Intention to levy annual assessment, and set public hearing for September 2, 2009, to consider the proposed assessment.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

K-3 Receive Report and Endorse a Proposed "Downtown Summit" (CM)

City Manager King provided a brief PowerPoint presentation regarding the proposed Downtown Lodi Summit. Specific topics of discussion included the purpose of the proposed Downtown Lodi

Summit, the layout of the proposed four-hour event consisting of presentations and workshops, presentation to be given by Michael Freedman, potential invitees, and logistics of the proposed event.

In response to Mayor Hansen, Mr. King stated the proposed October 16 date and time was driven by Michael Freedman's availability.

In response to Council Member Hitchcock, Mr. King stated he is sensitive to staff work load and the proposed summit was extended out as a result. Mr. King stated staff recognizes the importance of success and attendance at the event.

The City Council provided general comments supportive of the concept of having the proposed Downtown Lodi Summit and made suggestions regarding the program and formatting of the event.

Erin Smith, a representative of Scooter's in downtown, stated that the recent closings of Starbucks and Quiznos are not due to problems in the downtown area, but rather reflect the choices of those particular corporations.

Council Member Mounce made a motion, second by Mayor Hansen, to endorse holding a one-day (five-hour) Downtown Summit to gather and rally Downtown property owners and merchants to review the progress of Downtown revitalization, assess current conditions, and look toward the future.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

K-4 Receive Report on the Status of the General Plan Update (CD)

City Manager King briefly introduced the subject matter of the status of the General Plan update.

Interim Community Development Director Rad Bartlam discussed the overall status of the General Plan update as outlined in the schedule provided. Mr. Bartlam specifically discussed the timing associated with the draft General Plan, draft Environmental Impact Report (EIR), public review and the final EIR, and adoption of the General Plan and the housing element.

K-5 Approve Issuance of Request for Proposals for Turnkey Solar Demonstration Project at White Slough Water Pollution Control Facility (EUD)

City Manager King briefly introduced the subject matter of the request for proposals for a solar demonstration project at the White Slough facility.

Electric Utility Director George Morrow provided a PowerPoint presentation regarding the proposed solar demonstration project at White Slough. Specific topics of discussion included solar concentrating, solar photovoltaic, solar thermal "trough," sterling system, solar tower, photovoltaic history, how photovoltaic works, simple photovoltaic schematic, solar potential, photovoltaic growth, solar economics, "high gain" photovoltaic, renewable standards, California Energy Commission eligible renewables, solar in Lodi today, photovoltaic demonstration, proposals, proposed photovoltaic site near White Slough, community benefits, grapes and photovoltaic, project evaluation factors, and summary of solar energy possibilities for the City.

In response to Council Member Mounce, Mr. Morrow stated the City could lease the land, although the cost of such lease would be reflected in the purchase price. He further stated that, while he does not have the specific numbers, the price would likely be 15 cents per kilowatt with a 20% or less amortization value with depreciation.

In response to Mayor Pro Tempore Katzakian, Mr. Morrow stated the capped \$375,000 represents approximately 144 kilowatts and other parties will still have an ability to obtain the rebates.

In response to Council Member Johnson, Mr. Morrow stated currently there is no cost to the City for the project, there is some general interest in the community for doing such a project, and the proposed site will hold approximately 300 kilowatts.

In response to Mayor Hansen, Mr. Morrow stated the request for proposals asks for a minimum of 100 kilowatts. He further stated generally when the credits are taken away the purchase price is reduced.

In response to Council Member Hitchcock, Mr. Morrow stated staff can look into partnerships with entities to involve children and education with the demonstration project.

Mayor Hansen thanked Congressman McNerney for his visit to the City to address and receive clarification regarding issues such as Lodi Lake and the solar project.

In response to Mayor Hansen, Mr. Morrow stated the request for proposals will go out in the next couple of weeks, will remain open for 30 to 45 days, and the project should be in service by next June.

In response to Mayor Pro Tempore Katzakian, Mr. Morrow stated the proposal will include both visibility and educational aspects.

Council Member Mounce made a motion, second by Mayor Pro Tempore Katzakian, to approve issuance of request for proposals for Turnkey Solar Demonstration Project at White Slough Water Pollution Control Facility.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

K-6 Receive Report and Consider Options for Cable Television Broadcasts of City Council Meetings (CM)

City Manager King briefly introduced the subject matter of the options for cable television.

Communication Specialist Jeff Hood provided a PowerPoint presentation regarding the proposed options for cable television. Specific topics of discussion included the lack of support by Comcast after the meeting tonight, options for continuing, option to discontinue broadcasts, background with local franchise agreements, State law, the lack of PEG funding, franchise basics, local Digital Infrastructure and Video Competition Act of 2006 (DIVICA) ordinance which allows for 1% Public, Education, and Government (PEG) fee, customer service standards, annual audit, and staff seeking direction on staffing cameras.

In response to Mayor Hansen, Mr. King confirmed that currently the City does not charge the additional 1% and when it is charged it is passed on to the customer.

In response to Council Member Hitchcock, Mr. Hood stated the City was previously collecting 3%, the State franchise then allowed for 5%, and the City now collects the full 5% with an option to collect an additional 1% for PEG. He further stated that Comcast is not looking to take the equipment at this time.

In response to Council Member Mounce, Mr. Hood stated that it is not very complicated to operate the system once an individual is trained. Mr. Hood stated there is another option of flipping the switch with a still camera that does not move throughout the meeting.

In response to Mayor Hansen, Mr. Hood confirmed there is available trained staff at the Community Center that could run the equipment on an hourly basis.

In response to Council Member Johnson, Mr. Hood and Mr. Schwabauer confirmed that under DIVICA the cable companies are required to provide some public access but they are not required to provide staffing. General discussion occurred between Council Member Johnson, Mr. King, and Mr. Schwabauer regarding the ability to advertise on the broadcast channel.

In response to Council Member Hitchcock, Mr. King stated in order to broadcast meetings from Hutchins Street Square at this time, the City would need to hire a video production company because currently the facility does not have the internal infrastructure.

In response to Council Member Mounce, Mr. King stated he is not sure of the cost to broadcast the meeting for invocations and the primary issue with website advertising was the use of the .gov domain.

Council Member Mounce made a motion, second by Mayor Hansen, to continue providing cable television broadcasts of City Council meetings by utilizing paid stage technicians to operate the cameras and collect the additional 1% from Comcast pursuant to law.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

L. Ordinances - None

M. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 11:14 p.m. in memory of Steve Berkowitz, long-time teacher at Tokay High School who passed away on August 12.

ATTEST:

Randi Johl
City Clerk